

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Shafia M. Jones,

Case No. 19-cv-3057 (JRT/TNL)

Plaintiff,

v.

ORDER

Joshua Fahey, Sgt. Virginia Jones, and
Christine Zuraff, *in their individual and
official capacities*,

Defendants.

I. BACKGROUND

On February 18, 2020, Defendant Christine Zuraff filed a “Motion to Dismiss or Transfer.” ECF No. 26. Zuraff resides in Wisconsin and is an employee of the Wisconsin Department of Corrections. Zuraff’s Mem. in Supp. at 6, ECF No. 27; Decl. of Christine Zuraff ¶ 2, ECF No. 28. Pursuant to Federal Rule of Civil Procedure 12(b)(2), Zuraff has moved that she be dismissed from this matter for lack of personal jurisdiction. The Court set forth a briefing schedule on Zuraff’s motion. *See generally* ECF No. 34. Plaintiff’s response is due on March 23, 2020, and Zuraff’s reply is due on April 7, 2020. ECF No. 34 at 1.

On February 27, 2020, the Court received a “Motion to [sic] Leave to File an Amended Complaint,” ECF No. 35, filed by pro se Plaintiff Shafia M. Jones.¹ Shafia Jones

¹ To avoid confusion between Plaintiff Shafia M. Jones and Defendant Sgt. Virginia Jones, the Court will use Plaintiff’s first and last name.

sought leave to amend the Complaint to correct the spelling of certain defendants' names; include a statutory reference; "ma[k]e necessary changes to improper grammar used previously in the [C]omplaint"; and add "court costs" to her requested relief. ECF No. 35 at 1-2. Shafia Jones included a proposed Amended Complaint with her motion. *See generally* ECF No. 35-1.

On March 4, 2020, Defendants Joshua Fahey and Sgt. Virginia Jones (collectively, "Dakota County Defendants") filed a "Motion to Dismiss." ECF No. 38. In their motion to dismiss, the Dakota County Defendants refer to the proposed Amended Complaint and assert that Shafia Jones has failed to state a claim against them. *See, e.g.*, Dakota County Mem. in Supp. at 2, 13, ECF No. 40.

II. MOTION TO AMEND & ZURAFF'S PENDING MOTION

The Court will accept Shafia Jones's Amended Complaint, ECF No. 35-1, as an amendment as a matter of course under Fed. R. Civ. P. 15(a)(1). Accordingly, the Court finds that Shafia Jones's "Motion to [sic] Leave to File an Amended Complaint," ECF No. 35, is **MOOT** under the circumstances. The Amended Complaint is the operative pleading.

The Amended Complaint is, for all practical purposes, largely identical to the initial Complaint. As best as this Court is able to tell, there do not appear to be any new facts alleged with respect to this Court's jurisdiction over Zuraff and Zuraff's contacts with Minnesota. **Accordingly, consistent with the principles of Fed. R. Civ. P. 1, Zuraff shall file a letter no later than on April 7, 2020, indicating whether she reasserts her motion as to the Amended Complaint.**

III. DAKOTA COUNTY DEFENDANTS

Briefing on the Dakota County Defendants' motion shall occur as follows:

- 1. Plaintiff's response is due on or before April 8, 2020.**
- 2. The Dakota County Defendants' reply is due on or before April 23, 2020.**

The motion will then be deemed submitted and the Court will issue its report and recommendation based on the papers, without a hearing.

IV. PRIOR ORDERS

All prior consistent orders remain in full force and effect. Failure to comply with any provision of this Order or any other prior consistent Order shall subject the non-complying party, non-complying counsel and/or the party such counsel represents to any and all appropriate remedies, sanctions and the like, including without limitation: assessment of costs, fines and attorneys' fees and disbursements; waiver of rights to object; exclusion or limitation of witnesses, testimony, exhibits and other evidence; striking of pleadings; complete or partial dismissal with prejudice; entry of whole or partial default judgment; and/or any other relief that this Court may from time to time deem appropriate.

IT IS SO ORDERED.

Date: March 13, 2020

s/ Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

Jones v. Fahey et al.
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